

SOLANO COUNTY ZONING CODE ENFORCEMENT

2002-2003 Grand Jury Report

I. Reason for Investigation

The Grand Jury elected to investigate progress in resolving issues found in the 2001-2002 Grand Jury investigation into zoning code enforcement. Many responses were incomplete and indicated need for additional time to resolve.

II. Procedures

The Grand Jury:

- Reviewed 2001-2002 Grand Jury Final Report and Responses for Zoning Code Enforcement
- Visited unincorporated residential areas of Homeacres, Starr and Allendale

Studied:

- Summary of current business licenses and applicable County codes
- Summary of tax assessments

Interviewed:

- Solano County Board of Supervisors (BOS) members
- Solano County County Counsel
- Solano County District Attorney (DA)
- Solano County Department of Environmental Management (DEM) Director
- Solano County Department of General Services Assistant Manager
- Solano County Assessor - Recorder
- Solano County Treasurer - Tax Collector - County Clerk

III. Background

1. The 2001-2002 Grand Jury investigation into County zoning code enforcement identified a lengthy list of problems in Homeacres, Starr and Allendale areas. From the implementation of a County zoning code in 1959, enforcement actions were nearly nonexistent until the early 1990s. The Homeacres area was officially declared blighted in 1983. Current testimony and Department of Environmental Management correspondence in 1996 affirmed the blighted status. No declaration removing the blight status has been found. The only written zoning code enforcement policy found was 1996 direction by the BOS that enforcement action would only be prosecuted against egregious cases involving safety and health issues about which numerous complaints had been received. Two zoning code violations were successfully prosecuted in the 1990's but were not subsequently enforced and the violations continued. Another egregious offender of that time was filmed telling the BOS that he would continue to operate his business as he wanted. He has never been successfully prosecuted. The first designated code enforcement officer was authorized by the BOS in 1993. That authorization was increased in recent years to two full-time positions plus a half-time position but the stated 1996 enforcement policy has never been redefined by the BOS. Understanding of County policy regarding zoning code enforcement was identified by testimony of enforcement officials as ambiguous.

2. Other problems for the areas were presumed in the 2001-2002 Grand Jury investigation to be related to the sanctioned non-enforcement of code. One-third of 20 surveyed businesses were operating with no business permits and no accurate tax assessments. County employees, when asked, all testified that there was no requirement that businesses contracting with the County be in compliance with County laws. Major expenses incurred by the Sheriff's Office to control crime in the referenced neighborhoods were identified. Depressed property values reduced property assessments and County tax revenue as well as causing financial loss to the invested property owner. Homeacres Homeowner Association complaints and requests were ignored or delayed by County officials for years.

3. The complexity of this County problem will require significant time and study to correct. The responses to the 2001-2002 Grand Jury Final Report were applied as a guide for this investigation and to measure progress.

4. Recommendation #1 was that the BOS should change policy or enforce the law as written. Though departments were given verbal direction for some code enforcement, the BOS has not provided written guidance to counter the previous written restricted policy. The BOS response stated that an additional position for code enforcement was in the Fiscal Year 2002-2003 Budget. Though a position was established on paper and funds were initially authorized, the position has not been filled due to budget priorities so the response is incorrect. The Department is far from being adequately staffed to enforce its responsibilities. Testimony reveals County Counsel also has an intensive involvement in code enforcement and requires additional staffing.

5. Recommendation #2 was that the BOS direct the DEM, District Attorney (DA), and County Counsel to review neighboring county enforcement procedures to develop a fair and more efficient administrative process for code enforcement. Testimony indicated some local improvements had already been implemented by legal staff. Current Grand Jury members visited and affirmed positive effects of those beginning actions. An internal review of County penalty procedures (County Code Chapters 14 and 28) will be reported to the BOS in May 2003. The opportunity to learn from successful experience of neighboring counties has not yet been adopted. Testimony denied that any study was underway of the neighboring counties procedures even though the previous investigation reported significant procedural differences, more active enforcement and increased agency coordination.

6. Recommendation #3 proposed development by DEM of a broad education program to make residents more appreciative of zoning code enforcement advantages. The DEM response anticipated this recommendation would be included as part of expanded enforcement. Improvements in enforcement procedures have allowed some increase in enforcement actions but no advances in the education program were yet implemented.

7. Recommendation #6 stated that procedures should be established by the BOS to ensure all businesses meet the requirement to procure an operating license. A major factor contributing to the failure of the licensing system is the complex interface required between several County agencies. The Treasurer-Tax Collector is responsible under Solano County Code Chapter 14 for receiving the application, collecting the fee, and issuing the license. Between those actions, however, approval requirements must come from the DEM, Sheriff and applicable fire protection district. The code provides no enforcement authority or personnel authorization to the Treasurer-Tax Collector so enforcement must be delegated to the Sheriff. The BOS response was to direct staff to be more aggressive. The affected Departments have separately studied the license problem but no joint program is being developed nine months after the study was recommended. DEM is reviewing land use codes to ensure that businesses operating without a business license are not also in violation of the zoning code. Since last year's investigation, the number of businesses from the same sample group operating without a license has increased from seven to eight. The first step in apprehending these

violators, a letter from the Treasurer-Tax Collector requesting the Sheriff to visit the business site, was issued in April 2003.

8. Testimony received indicated that DEM could more efficiently perform the Treasurer-Tax Collector's administrative duties of processing business licenses. The DEM already has some primary requirements in the procedure. Interface between computer systems of the affected offices is, according to testimony, being studied to further simplify the approval and enforcement process.

9. Recommendation #7 suggested that the BOS direct actions to ensure that all businesses which exceeded the minimum requirements for filing business property statements are identified and assessments and penalties are collected. The BOS response was that the resolution was contingent upon correction of the aforementioned business license problem. Testimony confirms that the response was incorrect. The County Assessor works independently of business license issuance. If tax assessment was contingent upon business licenses, no property tax assessments would be levied on unlicensed properties. The number of delinquent businesses has now been reduced to four and notices have been dispatched to those. The Grand Jury was assured by the Assessor-Recorders Office that taxes will be collected for current and past years in accordance with the standard assessment code.

10. Recommendation #8 noted the need to establish procedures to ensure that all bidders for County contracts are in compliance with county laws. The BOS response explained that boilerplate language in each contract included a statement certifying the contractor is in compliance with all federal, state and local laws and that all appropriate licenses are filed with the Department. Compliance remained questionable since testimony of witnesses revealed unawareness of the fine print. The BOS response stated that General Services would be directed to require certification from all prospective bidders at time of bidding that they are in compliance with all County laws. Testimony revealed that no written direction was received by General Services and the County Policy Manual is currently being reviewed. Testimony states that there is no penalty for a contractor found in compliance violation. Another county, Santa Clara, utilizes a procedure to provide easily verifiable assurance of compliance; each bid application must identify the applicant's contractor and business license number.

11. Testimony to the 2002-2003 Grand Jury could not identify any attempt to affirm or deny the analysis done by the 2001-2002 Grand Jury that non-enforcement of zoning laws was losing more County long-term revenue than enforcement costs would create.

IV. Findings and Recommendations

Each finding is referenced to the background paragraph number

Finding #1 - The last written guidance for County zoning code enforcement, provided by the Solano County Board of Supervisors (BOS) in 1996, is contradictory to the law and to varying and inconsistent policies since that time. (1, 4)

Recommendation #1 - The BOS publish an updated written policy to enforce the law as written.

Finding #2 - The BOS has not provided Solano County Department of Environmental Management (DEM) and the County legal staff with sufficient staffing to enforce zoning codes. (4)

Recommendation #2 - The BOS increase and fund personnel authorizations to the level necessary to effectively enforce zoning codes.

Finding #3 - The BOS has not utilized the opportunity to study and learn zoning enforcement procedures from neighboring counties in order to incorporate any useful ideas. (5)

Recommendation #3 - The BOS direct the DEM, Solano County District Attorney (DA) and County Counsel to review enforcement procedures and interdepartmental coordination of the neighboring counties and provide recommended changes to the county procedures.

Finding #4 - One-third of businesses surveyed in the Homeacres area have no business license. (2, 7, 8)

Recommendation #4 - The BOS direct revision of Solano County Code Chapter 14 to:

- Eliminate the Treasurer-Tax Collector from the business license process
- Assign the administrative processes of receiving the application and issuing the license to DEM
- Direct the development of computer interface between the offices of DEM, Solano County Assessor-Recorder, Solano County Treasurer-Tax Collector and the Solano County Sheriff's Office so that license requirements can be quickly and accurately verified.

Finding #5 - Delinquent business taxpayers have been identified and assessments are being collected. (2, 9)

Recommendation #5 - Continue aggressive enforcement of the law.

Finding #6 - Solano County procedures do not ensure that businesses bidding on County contracts are in compliance with County laws. (2, 10)

Recommendation #6 - Ensure procedures in the Solano County Policy Manual revision clearly identify all lawful requirements of the bidder.

Finding #7 - The BOS has not evaluated the direct cost to the County, economic cost to the residents, and morale costs to the community, of the sanctioned disregard of County zoning laws. (11)

Recommendation #7 -The BOS direct a study to evaluate the referenced costs.

V. Comments

Many of the residents of the three studied unincorporated areas deserve special commendation for their efforts in beautifying their properties even while a small portion of the residents degrade the effect for all. The Board of Supervisors' expressed desire to improve the communities through "voluntary compliance" has had limited success. The more egregious offenders in Homeacres have become even more flagrant violators since the Grand Jury inspected their properties in April 2002. One BOS member testified that enforcement is a very low priority. The recommended cost analysis will hopefully alleviate that concern. Other testimony recognizes that law enforcement for the common good should not be evaluated by cost. Time proven principles of applying the laws equally to all will eventually benefit the large majority of residents.

Affected agencies

- Solano County Board of Supervisors
 - Solano County Department of Environmental Management
 - Solano County Sheriff's Office
 - Solano County Assessor - Recorder
 - Solano County Treasurer - Tax Collector - County Clerk
 - Solano County District Attorney
 - Solano County -County Counsel
 - Solano County Department of General Services
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